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November 20, 2019

BY E.C.F.

Honorable Ronnie Abrams
United States District Judge
Southern District of New York
40 Foley Square
New York, New York 10007

MEMO ENDORSED

Re: Edward Rosado v. The City of New York, et al., 16 Civ. 3310 (RA)(KNF)

Your Honor:

I am a Senior Counsel in the office of James E. Johnson, Corporation Counsel of the City of New York, attorney for defendants in the above-referenced matter. Defendants write to respectfully request an extension of time to file the motion for summary judgment pursuant to Fed. R. Civ. P. 56 from November 25, 2019 until January 17, 2020. Plaintiff's counsel, Lawrence LaBrew, Esq., has not consented to this request.¹ This is the defendants' first request for an extension of time to file the motion for summary judgment.

¹ The Plaintiff is not consenting to the Defendants' application to extend the time for the Defendants' to file a motion for summary judgment for the following reasons. The Plaintiff believes that the motion lacks merits, and unnecessarily delays the litigation. This is not a complex case. The Plaintiff was beat up by Police Officers at a bus stop, and arrested without probable cause -- or arguable probable cause. The Bronx County District Attorney's Office -- in a written document -- declined prosecution of the case, essentially because it is not a crime to stand at a bus stop on a public street.

This action commenced on 3 May 2016. Docket 1. All discovery issues were finally resolved on 9 August 2018. Docket 45. On 20 September 2019, Defense Counsel stated their intention to file a motion for summary judgment. Plaintiff's Counsel stated that Counsel was of the opinion that the motion lacked merit, and that the Defendants had not negotiated in good faith to resolve the case. Dockets 62 and 63. For the above stated reasons, the Plaintiff is not consenting to the adjournment. Defendants' to file a motion for summary judgment for the following reasons. The Plaintiff believes that the motion lacks merits, and unnecessarily delays the litigation. This is not a complex case. The Plaintiff was beat up by Police Officers at a bus stop, and arrested without probable cause -- or arguable probable cause. The Bronx County District Attorney's Office -- in a written document -- declined prosecution of the case, essentially because it is not a crime to stand at a bus stop on a public street.

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Defendants are working diligently on their Motion for Summary Judgment. However, the undersigned requires an extension of time to finalize and serve defendants' motion. The reason for the request is because as plaintiff's counsel did not take any depositions in this case, the undersigned needs to obtain three officer affidavits in support of their motion for summary judgment. However, due to scheduling issues with Officers Ortiz and McAuliffe, the undersigned is unable to obtain their affidavits in time to finalize defendants' motion. Defendants respectfully advises the Court that Officer McAuliffe has unexpectedly fallen sick and will not be returning to work until December 5, 2019.

The requested extension is also necessary due to the undersigned being on trial and out of the office for the holiday season. Specifically, the undersigned just finished a trial in Felix Rodriguez v City of New York, et al., 16-cv-9604, before the Honorable Naomi Reice Buchwald in the Southern District of New York on November 13, 2019. Additionally, defense counsel will be doing jury selection in the Eastern District before the Honorable Peggy Kuo in Pukhovich v. City of New York, et al., 16-cv-01474, on December 9, 2019 with the trial starting on December 16, 2019 before the Honorable Kiyo A. Matsumoto.

In view of the foregoing, defendants respectfully request that the Court endorse the following revised briefing schedule:

- Defendants' Motion for Summary Judgment due January 17, 2020;
- Plaintiff's Opposition to Defendants' Motion for Summary Judgment due March 20, 2020;
- Defendants' Reply in Further Support of Summary Judgment due April 10, 2020.

Thank you for your consideration herein.

Respectfully submitted,




Elizabeth Connelly
Senior Counsel
Special Federal Litigation Division

cc: By E.C.F.
Lawrence LaBrew, Esq.

consenting to the adjournment.

Application granted. Absent good cause, no further extensions will be granted.

SO ORDERED.



Ronnie Abrams, U.S.D.J.
November 21, 2019